

UNITED STATES DISTRICT COURT

for the

US

District of

NMI

Division

CV 19-00002

Case No.

(to be filled in by the Clerk's Office)

SATHIYAPALAN KALARIKKAL

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Jury Trial: (check one)



Yes



No

WORLD CORPORATION dba SAIPAN WORLD RESORT

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

SATHIYAPALAN KALARIKKAL

Street Address

TEXAS ROAD, CHALAN KANOA

City and County

SAIPAN

State and Zip Code

MP 96950

Telephone Number

670 235 7302 / 670 286-2573

E-mail Address

Kalan'kKal.Sathiyapalan@yahoo.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Defendant No. 1

Name

SAIPAN WORLD RESORT

Job or Title *(if known)*

Street Address

TEXAS ROAD, SUSUPE

City and County

SAIPAN

State and Zip Code

MP 96950

Telephone Number

670 234-5900

E-mail Address *(if known)*

Defendant No. 2

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

Defendant No. 3

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

Defendant No. 4

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*



Federal question



Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

This charge is covered by Federal law under the United States Constitution.

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, *(name)* _____, is a citizen of the State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, *(name)* _____, is a citizen of the State of *(name)* _____. Or is a citizen of *(foreign nation)* _____.

b. If the defendant is a corporation

The defendant, (name) World Corporation, is incorporated under the laws of the State of (name) USA, and has its principal place of business in the State of (name) SAIPAN - USA.
 Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) SAIPAN - USA.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

The statement of the claim is attached herewith in additional pages for reference.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Punitive money damage.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 02/06/2019

Signature of Plaintiff

K. Sathiyapalan

Printed Name of Plaintiff

SATHIYAPALAN KALARIKKAL

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

Pro se

Date: 02/05/2019

From

Sathiyapalan Kalarikkal
Po box 503096
Saipan MP 96950
Telephone: 670 286 7302 / 670 235 7302
E mail: kalarikkal.sathiyapalan@yahoo.com

To

Honorable Chief Judge Ramona Manglona
US District Court
Saipan MP 96950

Sub: EMPLOYMENT DISCRIMINATION

Dear Madam,

I, SATHIYAPALAN KALARIKKAL, was an employee of Saipan World Resort, am, hereby, humbly requesting your office to endorse of my right to sue against my employer SAIPAN WORLD RESORT under federal law.

I believe I have been discriminated against because of my race (Indian), which is a violation of Title VII of the Civil Rights Act of 1964, as amended.

I have, hereby, enclosed a brief explanation of the discrimination and the full transcription of the conversation with regards to this matter between Saipan World Resort HR Manager and me for your kind perusal.

Thanking you,

Respectfully,


SATHIYAPALAN KALARIKKAL

Encl: Eeoc letter.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

255 E. Temple Street, 4th Floor
Los Angeles, CA 90012

CP/77u

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

FEB 21 2019



U.S. POSTAGE >> PITNEY BOWES



ZIP 35205 \$ 000.47⁰
02 4W
0000361441 NOV 07 2018

96950-999955



EEOC Form 161 (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Sathiyapalan Kalarikkal**
Po Box, 503096
Saipan
Saipan, MP 96950

From: **Los Angeles District Office**
255 E. Temple St. 4th Floor
Los Angeles, CA 90012



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

486-2018-00565

Anita Denise Ramos,
Investigator

(213) 894-1005

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

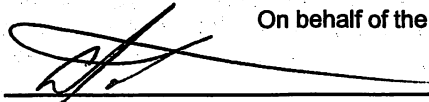
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Rosa M. Viramontes,
District Director

21-5-18

(Date Mailed)

Enclosures(s)

cc:

Jun Ham
Human Resources Manager
WORLD CORPORATION
Db a Saipan World Resort
P.O. Box 500066
Saipan, MP 96950

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 – not 12/1/10** – in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </div> <div style="text-align: right;"> 486-2018-00565 </div> </div>	
and EEOC			
_____ <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) Mr. Sathiyapalan Kalarikkal		Home Phone (Incl. Area Code) 670-235-7302	Date of Birth
Street Address City, State and ZIP Code Po Box, 503096, Saipan, Saipan, MP 96950			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name WORLD CORPORATION		No. Employees, Members 201 - 500	Phone No. (Include Area Code) (670) 234-5900
Street Address City, State and ZIP Code Db a Saipan World Resort, P.O. Box 503096, Saipan, MP 96950			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap; padding: 5px;"> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> RACE</div> <div style="margin-right: 10px;"><input type="checkbox"/> COLOR</div> <div style="margin-right: 10px;"><input type="checkbox"/> SEX</div> <div style="margin-right: 10px;"><input type="checkbox"/> RELIGION</div> <div style="margin-right: 10px;"><input type="checkbox"/> NATIONAL ORIGIN</div> <div style="margin-right: 10px;"><input type="checkbox"/> RETALIATION</div> <div style="margin-right: 10px;"><input type="checkbox"/> AGE</div> <div style="margin-right: 10px;"><input type="checkbox"/> DISABILITY</div> <div style="margin-right: 10px;"><input type="checkbox"/> GENETIC INFORMATION</div> <div style="margin-right: 10px;"><input type="checkbox"/> OTHER (Specify) _____</div> </div>		DATE(S) DISCRIMINATION TOOK PLACE <div style="display: flex; justify-content: space-between;"> <div> Earliest 04-04-2018 </div> <div> Latest 04-04-2018 </div> </div> <div style="margin-top: 10px;"> <input type="checkbox"/> CONTINUING ACTION </div>	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <div style="padding-left: 20px;"> <p>I. On or about January 18, 2018, I informed by Mr. Jun Ham HR Manager that my employment contract will not be renewed. Therefore, my employment contract will expire on or about March 31, 2018. Mr. Ham specifically mentioned that Indian Massage is not in demand and your skills is no longer needed. I asked Mr. Han if I could continue to work until August of 2018 since my visa was valid until September of 2018. My request was denied.</p> <p>II. The reason given to me for not renewing my contract is that my department will be closing in August of 2018.</p> <p>III. I believe I have been discriminated against because of my race (Indian), which is in violation of Title VII of the Civil Rights Act of 1964, as amended.</p> </div>			

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.	NOTARY – When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)
_____ Date Charging Party Signature	

NAME: SATHIYAPALAN KALARIKKAL

POSITION: SUPERVISOR

ADDRESS: PO BOX 503096
SAIPAN MP 96950

TELEPHONE: 670 235 7302/ 670 286 2573

EMPLOYER: WORLD CORPORATION dba SAIPAN WORLD RESORT

ADDRESS: PO BOX 500066
SAIPAN MP 96950
TEXAS ROAD, SUSUPE
TELEPHONE : 670 234 5900

SUB: **EMPLOYMENT DISCRIMINATION**

BRIEF EXPLANATION:

On January 15, 2018, Saipan World Resort HR office issued an official memorandum to all concerned employees to submit a copy of their CW1 (work permit) Visa to HR office for renewal process. I and my staff submitted the copy.

On January 18, 2018, I was called to HR office and informed me by HR Manager Mr. Jun Ham that the company will not renew my employment contract and thus my CW1 visa. My employment contract is expiring on March 31, 2018 and my CW1 visa expiring on September 30, 2018. When I asked the reason for this decision, Mr. Jun Ham said that my department (Oasis Massage) will be closing in August, 2018.

On January 19, 2018, I sent a letter to General Manager Mr. Henry Kim requesting to consider this decision, and suggested to transfer to another department. And, also to extend my contract until September 30, 2018 on which day was my visa expiring.

On January 19, 2018, General Manager Mr. Henry Kim replied me that transfer to another department will not be possible and contract extension might be considered.

On January 30, 2018, the company put a job Vacancy Announcement on the Labor Web site for renewal of my staff and my Manager for processing their work permit **except me**.

In MARCH, 2018, There were meeting held at Lilac Room (this room located at the first floor of SWR) conducted by My Director Juko Ishikawa and my Manager Ronald Sanchez for future plan of my staff after closing my department in August, 2018. **(I was not informed about this meeting)**

On April 4, 2018, I signed my employment contract for 4 months period expiring on august 31, 2018. All of my staff signed the employment contract for one year expiring March 31, 2019. On may 10, 2018 the company put another Job Vacancy announcement for my staff and my Manager for processing their work permit except me. (they were not chosen for the Lottery system, a random computer generated selection process by USCIS).

On July 30, 2018 the company filed petition for processing CW1 work permit for my staff and my Manager except me.

On July 31, 2018, I received an official Notice form HR office mentioning that the company will not renew my contract and it is expiring august 31, 2018, and consider this is a month prior notice for non renewal

On August 27,2018, Saipan World Resort management issued a memorandum and signed by HR Manager, Director of Operation and the General Manager about my staff and Gym spa staff temporary assignment to another department including, most importantly, the **Gym Spa supervisor Ms. Reyes, Mariquel (Cleta)**. **(Mr. Jun Ham HR Manager, Saipan world Resort, specifically mentioned to me that Supervisor cannot be transferred to another department, when I requested him to transfer me to other department).**

Consequence of the Saipan World Resort Management decision to discontinue my employment contract and my CW1 work visa caused me the following terrible sufferings and damages:

- Put me and my family in severe trauma.
- I lost the opportunity to be chosen in the CW work visa Lottery system (A Computer-generated random selection process used by USCIS for fiscal Year 2018-2019
- Unable to find a new employer within the time frame and became jobless for consecutive 6 months period.
- The Monetary damage.

Mr. Jun Ham
Position: HR Manager
Date: 01/18/2018
Time: Around 6.35 pm
Location: HR Office (World Resort)

Mr. Jun Ham (HR Manager) and I had a meeting in his office on January 18, 2018. It was his initiative to call me and have the meeting. Mr. Jun Ham informed me he has a bad news to me that the company is not going to renew my employment contract and thus my CW works visa will not be renewed as well. I should find another employer.

(He told me this decision was made in accordance with he had a meeting with Juko Ishikawa (Director, Operation and Mr. Henry Kim (General Manager).

(My CW work visa valid until September 30, 2018). **He told me the reason for this decision is that Oasis Massage is going to close in August this year.** Then Mr. Jun Ham specifically mentioned **"Indian Massage is not in demand and your skill is no more needed"**. Mr. Jun Ham told me that the company will be renting out Oasis Massage for outsourcing agency for another business purpose and the monthly rental fee is \$4000.00. Mr. Jun Ham said if I find a new employer, the company will help me to transfer and I can work all the way with the new employer because my CW visa still valid until September 30, 2018. Mr. Jun Ham told me that I should find a new employer by March 20, 2018 because the CW work visa petition filing starting date is April 2, 2018 as per the USCIS regulation. He said, if this date is over, then I won't have a chance to file my CW work visa petition by the new employer because of the numerical visa cap.

It was a big shock to me as I didn't do anything wrong against the company. I told Mr. Jun Ham that it is very hard to find a new employer at this time because of the limited availability of the CW work visa and the employer prioritizes their existing employee first, not hiring the new employee. But Mr. Jun Ham disagreed with my opinion even though it is a reality. I asked Mr. Jun Ham what will happen to my staff and my Manager?. He said they will transfer to other department. Then I told Mr. Jun Ham that it is unfair that only my employment contract and CW work visa is not going to renew. I also told Mr. Jun Ham that it is a big insult to me among the staff, and the company put me and my family in a miserable situation. I also requested him please transfer me to other department, he said, **the staff and the Manager can transfer but supervisor can't be transfer to another department.**

Then I requested to Mr. Hun Ham again that just transfer me to other department as a regular staff not as a supervisor but Mr. Jun Ham said then you won't have career advancement. I mentioned to him if you concerned about my career, why the company doesn't want me to transfer to another department? I also told him I have family here and they are surviving by only my income. Mr. Jun Ham kept on forcing me to find new employer during the meeting and he didn't show any mercy toward me.

When he specifically mentioned **"Indian Massage is not in demand and your skill is no more needed,"** I felt it was derogatory and discriminatory remarks by Mr. Jun Ham. I told him we don't run this business under Indian Massage label anymore, we have mixed products also.